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January 15, 2003

The Honorable Peter J. Walsh
United States Bankruptcy Court
District of Delaware
824 Market Street, 6th Floor
Wilmington, Delaware 19801

Dear Judge Walsh:

Over the last year, I have been deeply troubled that serious issues of potential consequence to the Polaroid Corporation bankruptcy proceedings may have received only cursory review by the Court. I realize that, for whatever reasons, many of these questions were never formally raised by the parties themselves. Nonetheless, I remain perplexed and disturbed that material issues may have escaped thorough consideration; and consequently was pleased to note your interest in comments from the US Trustee and others about the prospect of appointing an independent examiner.

I am writing today to endorse such an appointment. As you may be aware, I have followed the tribulations of the Polaroid Corporation closely. For more than a year, I have pursued with corporate officials and relevant federal agencies a host of problems -- relating to Polaroid's management, accounting practices, employee and retiree benefits -- that would appear to bear directly on its bankruptcy proceeding. Most have never been aired before the Court; and others which have arisen have been "resolved" on the basis of uncontested testimonials by self-interested parties.

During the course of these proceedings, I have communicated the depth of my concern to the US Trustee, and have been frustrated by the lack of aggressive response. At stake is not only the human impact on employees, retirees, stockholders and creditors, but also public confidence in yet another arena of the financial marketplace.

As you know, it is the role of the US Trustee in bankruptcy cases to represent the public interest. In that watchdog capacity, the Trustee is charged with monitoring

the conduct of all parties; ensuring compliance with relevant laws and procedures; and identifying and investigating fraud or abuse. The Trustee is the only party with the authority and capacity to see the whole picture, not just narrow interests; and to take notice of all relevant developments, not merely the legal formalities. Obviously, the Trustee operates within the letter and spirit of the federal bankruptcy code, but is not otherwise constrained from taking note of plain-view developments in the public domain. In fact, the Court must rely on a Trustee to bring such matters to its attention. The bar for investigatory inquiry is set even higher for Trustees overseeing bankruptcies involving “sales of substantially all assets” to private parties. In this case, however, it is not clear that these responsibilities have been fulfilled.

Even a casual scan of headlines of dozens of news reports over the last year would have sounded alarm bells. The alarms have been silent, however, because the questions were never asked – much less answered.

In discussions with my office, the Trustee explained that the key factor is the “fairness” of the bankruptcy sale -- whether one party had access to more or better information, or deviated from court-ordered procedures. But in this case, the Court was never informed of numerous specific allegations with insider implications -- many published in major Boston daily newspapers over a period of months -- which the Trustee conceded *might well have been relevant*. The Trustee regretted the limits of his investigatory resources; but expressed no discomfort that conclusions that the deal was conducted at arm’s length were based on unchallenged assertions of the parties’ attorneys.

Admittedly, the claims brought to our attention are circumstantial. However, the landscape appears to be littered with inconsistencies, contradictions, and confusing or misleading information. That is precisely why further independent examination is essential. It is in this spirit of transparency and accountability that I respectfully encourage the appointment of an independent examiner. For the sake of retirees who have lost their health insurance and pensions, disabled employees who have been fired, or shareholders who are left to pay the price, it is imperative for the Court to have access to the entire record.

To this day, after a year of allegations of inappropriate insider dealings relating to the auction, we still don’t even know the identity of the owners and investors of One Equity Partners. From the staggering and repeated bonuses for top executives, to the rationale for sale rather than reorganization; from discrepancies in asset valuation, to reliance on Polaroid agents to validate that the sale transaction was appropriately shopped; from contradictory accounting data in various filings, to first-hand reports of collusion with the sole and successful bidder – the breadth and magnitude of the outstanding questions is breathtaking.

It's clear that this is not an oversight on Polaroid's part. During the course of these proceedings, company officials declined to meet with my congressional colleagues and me to discuss these questions. The new owner failed even to respond to a similar invitation.

Some months ago, you remarked from the bench that *"it's up to Congress to do something to protect those individuals who put their life into a company and retire expecting to receive retiree benefits, medical benefits, and have them terminated. This is not the only large case where that has happened. I see it very frequently and I have commented from the bench on several occasions that it's unacceptable. Unfortunately, there's nothing I can do about it."*

I took your comments to heart while drafting legislation subsequently to provide bankruptcy judges and trustees significantly greater discretion to review corporate transactions that might otherwise undermine the integrity of the bankruptcy process. As a member of the House Judiciary Committee who has been deeply involved in the congressional debate on federal bankruptcy reform, it is my intention to reintroduce this legislation in the 108th Congress, and I hope to see the bill ultimately enacted into law. In the meantime, however, I join many others in appealing to you to help ensure the equity of this proceeding by granting the motion for an independent examiner.

Thank you for your kind attention.

Sincerely,

A handwritten signature in black ink that reads "Bill Delahunt". The signature is written in a cursive, slightly slanted style.

William D. Delahunt